

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

In The Matter of)	
)	
Extension of Computer)	Docket No. OST-2003-14484
Reservations)	
System (CRS) Regulations)	
)	

MOTION FOR LEAVE TO FILE
AND REPLY OF SABRE INC.

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March 5, 2003

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MOTION FOR LEAVE TO FILE

Pursuant to the Department's Rules, Sabre respectfully requests leave to file the following Reply to the Comments filed in the above-referenced proceeding. Grant of this motion will not unduly delay this proceeding, and no party will be prejudiced by the Department's acceptance. Sabre believes its Reply provides important information the Department would not otherwise have, providing a more complete record upon which to make a decision.

REPLY OF SABRE INC.

On January 13, 2003, the Department of Transportation ("Department") issued a Notice of Proposed Rulemaking ("NPRM"), in which it proposed to extend the expiration date of the Computer Reservations Systems ("CRS") Rules (14 C.F.R. Part 255) from March 31, 2003 to January 31, 2004. 68 Fed. Reg. 7325. Sabre, ASTA, Amadeus, Galileo, and US Airways, filed

in support of the proposed extension. American¹, Orbitz², and Worldspan³ filed in support of an extension, but for shorter periods than proposed by the Department, while Lan Chile, Northwest and United⁴ filed comments opposed to any extension of the current Part 255 rules. United and Orbitz suggest immediate rescission of the parent carrier mandatory participation rule (14 C.F.R. § 255.7), while United alone proposed repeal of the nondiscriminatory booking fee rule (14 C.F.R. § 255.6). United and carrier-controlled Orbitz are the only commenters suggesting that the Department not even await comments and reply comments in its related CRS NPRM proceeding (67 Fed. Reg. 69366, Nov. 15, 2002).

In reply to these comments, Sabre respectfully submits as follows:

In their comments, Orbitz, United, Northwest, and American have once again trotted out the tired canard that booking fees are, among other things, too high, ever-increasing, and anti-competitive. Sabre and others repeatedly have shown that booking fee increases are reasonable, especially compared to alternative distribution methods. Further, Sabre has shown that booking fee increases have been moderate over time and have been tied to increasing data processing costs, enhanced functionality of global distribution system (“GDS”)⁵ services, such as E-ticketing (which help the airlines lower their own distribution expenses) and other increased costs of doing business. As Sabre will detail more fully in its comments on March 17, 2003, incremental increases in booking fees barely cover the expense imposed by the increased functionality offered to airlines – let alone the ever-increasing demand placed by savvy consumers and

¹ American suggests an extension until August 31, 2003.

² Orbitz suggests an extension until September 20, 2003.

³ Worldspan suggests an extension until November 30, 2003.

⁴ United alternatively suggests an extension until June 30, 2003.

⁵ Sabre is a GDS – that is, it offers a wide range of travel options including hotel accommodations, car rental, and cruises, among other things. Hereinafter the term “GDS” is used as a more exact descriptor of entities like Sabre.

travel agents looking for the lowest fares possible (with high “look-to-book” ratios placing even more demands on system resources). Increasing message complexity as measured by the number of computational instructions performed on GDSs has increased dramatically. The number of messages per booking also increased dramatically with approximately 70 messages per booking in 1993 to approximately 254 per booking in 2002.

The opponents of the extension, current and former CRS owners, affiliates, or code-share partners of such former owners, mistakenly urge the Department to ignore its ongoing related rulemaking because of their huge losses and “dire financial condition.” American Comments at 1; United Comments at 3; Northwest Comments at 2.⁶ Sabre submits that, of all costs airlines need to manage, booking fees are near the very bottom of the list. Booking fees are approximately 2.0 - 2.5% of an airline’s total expenses, a percentage that has remained relatively constant over the last decade. GDS gross booking fees have generally risen in line with the CPI and pale in comparison to other legacy airline expenses, like salaries and benefits, fuel, and taxes.

Indeed, as nearly everyone in the industry is aware, booking fees are not the reason some airlines are in their current position. The total costs to any of the five largest airlines in the U.S. of selling a ticket through a Sabre-equipped travel agency is less than half of what it costs that same airline if that same traveler had booked directly its airline reservations office. That cost is on par with what it costs those same airlines to distribute tickets through their proprietary web sites when all the costs of running those sites, servicing those customers, and incentives to use those sites (such as the cost of extra frequent flier miles) are taken into account. The total cost to

⁶ Innovative airlines such as Southwest, JetBlue, and AirTran continue to prosper and expand in the face of miserable results posted by legacy airlines, and it is not because they avoid GDS booking fees. Further, these same big airlines continue to pour money into the money-losing Orbitz venture.

airlines of processing passenger reservations has declined, not risen, thanks in large part to GDS-spawned innovations.

American's complaints about GDS monopoly pricing power are particularly misplaced. First, for calendar year 2003, Sabre's effective fee increase to American and other top-level participating airlines was three percent (3%), about the range of inflation. Second, the Department should be aware that Sabre has offered American (and other airlines) a discount pricing structure – an offer so far spurned by American – under which Sabre would cut 10% off 2002 rates and then freeze those rates until November 2005, in return for certain commitments to treat Sabre subscribers in a non-discriminatory fashion. Several of the large airlines also summarily spurned an offer from a competitor GDS to obtain a deep discount off rates.

Interestingly, the large carrier-owned Worldspan has booking fees comparable to or higher than independent GDS booking fees. Presumably if the legacy airlines believed that booking fee levels were supracompetitive, they would not “gouge” themselves. The airlines' claims of excessive booking fee levels or unjustified increases are most tellingly belied by the announcement of Worldspan, the system they own and control, within a matter of days of their filings, that it was increasing its booking fee for airlines by over two percent (2%) for 2003. Indeed, Worldspan's actions in increasing fees within the last few days give an otherworldly quality to the complaints by Worldspan's owners about the booking fee increases of others.

Finally, until American monetized its interest in Sabre (receiving hundreds of millions of dollars when it spun off Sabre shares to AMR shareholders) it consistently, steadfastly – and rightly – rejected claims that GDSs had the very monopoly power it now asserts GDSs possess. If Sabre truly had that sort of power, query why American would have ever chosen to divest it-

self of a GDS it owned outright. United, which sold off its remaining interest in Galileo in 2001 to Cendant, is subject to the same criticisms.

The Department should make no mistake. What is really happening in this proceeding is that certain legacy airlines who long defended the GDS business now hope, having disposed of those interests to others, that they can convince the Department to adopt imbalanced, asymmetrical regulation to give them the upper hand in their dealings with GDSs and others in the travel business⁷. Despite their urging, inviting the chaos that would flow from the “big bang” of allowing the rules or a portion of them to simply lapse in three weeks without any form of transition and without awaiting comments and replies on the related rulemaking would just not be responsible, and would not survive judicial scrutiny.

Conclusion

At bottom, the issues posed by the Department’s NPRM are complex, raising economic, policy, and antitrust questions that will require considerable time to properly review and address. After almost 20 years of regulation, it would be most unwise at this point to rush to judgment over a difference of a few months.

⁷ As to American’s complaint that it is being sued by Sabre in the Dallas-Fort Worth area for refusing to comply with its obligations to provide Sabre certain fares, Sabre knows that the irony will not be lost on the Department that these very provisions would be ones inserted into the standard Sabre participation agreement at a time when Sabre was only a division of American, and that for years these were commitments other airlines were obligated to respect. Of course, in seeking a judicial determination of its rights under the contract with American, Sabre was far more measured in its conduct than Worldspan, the CRS of which American is (for now) an owner, which publicly threatened in November 2002 to expel US Airways from its system because of an alleged claim under the contract.

Reply of Sabre, Inc.
March 5, 2003

WHEREFORE, for all of the reasons stated above, Sabre respectfully reiterates its support for an extension of the rules' sunset date until January 31, 2004.

Respectfully submitted,

/s/

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March 5, 2003

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